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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES OWLEN MILES,

Defendant and Appellant.

A155871

(Mendocino County
Super. Ct. No. SCUK-CRCR-17-89803)

James Owlen Miles appeals from a four-year prison sentence imposed after an uncontested probation violation hearing. Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Our independent review of the record reveals no arguable issues, and we affirm.

BACKGROUND

In April 2017, Miles took almonds and a cheese grater from a grocery store and, after leaving the store, brandished a hammer when confronted by store employees. Miles pled no contest to second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)) and admitted two prior prison term allegations (*id.*, 667.5, subd. (b)).¹ The trial court suspended imposition of sentence and placed Miles on three years' formal probation with conditions including a 180-day jail term with 56 days' credit for time served, monthly reporting, and compliance with all laws and probation department orders. The trial court allowed Miles to be released directly to a residential substance abuse treatment program

¹ Undesignated statutory references are to the Penal Code.

and, if he successfully completed six months in the program, he was to receive “day-for-day credits” against his jail term.²

A few months later, Miles admitted probation violations for leaving his residential treatment program before completion and theft of a bicycle. The trial court revoked and reinstated probation on modified terms, including a 270-day jail term with 67 days’ credit for time served.

Three months later, Miles’s probation was again revoked and eventually reinstated after the trial court found he failed to report to the probation department and to submit proof he was participating in treatment. The terms of Miles’s probation were modified, including the requirement that Miles serve 180 days in jail with 27 days’ credit for time served and waive an additional 90 days’ credit.

After another three months, Miles admitted a third probation violation for leaving his residential treatment program and failing to report to probation. The trial court revoked and reinstated probation on modified terms, including the requirement that Miles serve 90 days in jail with 28 days’ credit for time served and waive additional credits.

Almost one year after being placed on probation, the department alleged Miles again violated the terms of his probation by failing to enter a residential treatment program, failing to report, and committing a misdemeanor battery. The trial court summarily revoked Miles’s probation, and he initially denied the allegations. However, midway through a contested hearing Miles admitted the failure to report and enter a treatment program. The court took an oral waiver of rights and defense counsel stipulated the factual basis for Miles’s admission.

At sentencing in September 2018, the trial court declined defense counsel’s invitation to strike either of Miles’s prison priors and sentenced him to state prison for an aggregate term of four years. The sentence is comprised of the low term of two years for the robbery, with consecutive one-year terms for each of the prison priors (§ 667.5,

² Although this judgment was directly appealable (§ 1237, subd. (a); *People v. Lazlo* (2012) 206 Cal.App.4th 1063, 1067, fn. 3), Miles did not file a notice of appeal.

subd. (b)). Miles was awarded 121 custody credits and the trial court imposed a previously stayed \$300 probation revocation fine (§ 1202.44), a \$300 restitution fine (§ 1202.4, subd. (b)), a \$40 court operations assessment (§ 1465.8), a \$71 local crime prevention program fine (§ 1202.5), and a \$30 court facilities assessment (Gov. Code, § 70373, subd. (a)(1)).

DISCUSSION

Miles's appellate counsel advised Miles, as required by *People v. Kelly* (2006) 40 Cal.4th 106, 124, of his right to file a supplemental brief to bring to this court's attention any issue he believes deserves review. Miles has not filed a brief.

We begin by noting the scope of our review is quite limited because Miles appeals from the sentence imposed after he admitted the fourth probation violation, and he did not request a certificate of probable cause. (See §§ 1237, 1237.5.) Accordingly, our review is limited to issues involving his sentence or other matters arising *after* his admission of the probation violation and that do not affect the validity of his admission. (§1237.5; *People v. Billetts* (1979) 89 Cal.App.3d 302, 306–308; *People v. Mendez* (1999) 19 Cal.4th 1084, 1098 [requirements of § 1237.5 “should be applied in a strict manner”].)

The trial court was authorized to impose sentence on Miles's robbery conviction. (§ 1203.2, subd. (c) [“[u]pon any revocation and termination of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced”].) Miles was adequately represented by counsel who successfully argued for the mitigated term on the robbery. (See § 213, subd. (a)(2) [second degree robbery punishable by imprisonment “for two, three, or five years”].)

The trial court did not abuse its discretion in declining to strike either of the prior prison term allegations (§ 667.5, subd. (b)) under section 1385. (See *People v. Bradley* (1998) 64 Cal.App.4th 386, 391, 395.) In doing so, the court reasonably explained “[Miles] earned that through his record and continuing course of criminal conduct.” Once it declined to strike these enhancements, the trial court had no discretion but to

impose two consecutive one-year terms for each prison prior. (*People v. Langston* 33 Cal.4th 1237, 1241; *People v. Savedra* (1993) 15 Cal.App.4th 738, 746–747.) The trial court properly limited Miles’s conduct credits because he was convicted of a violent felony. (§§ 2933.1, subd. (c), 4019.)

We have reviewed the entire record and identified no arguable issues.

DISPOSITION

The judgment is affirmed.

BURNS, J.

WE CONCUR:

JONES, P. J.

NEEDHAM, J.

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